



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of **Stamm et al**

Application No. **09/899,026**

Group Art Unit: **1615**

Filed: **July 6, 2001**

Examiner: **Sheikh**

For: **Fenofibrate Composition Having High Bioavailability and Method for Preparing It**

Docket No: 107664.115US3

Commissioner of Patents
PO Box 1450
Alexandria, VA 22303-1450

Information Disclosure Statement

Pursuant to 37 C.F.R. §§ 1.56, 1.97 and 1.98, Applicants bring to the attention of the Examiner the documents listed on the attached PTO-1449 Form.

The Applicants are providing copies of the following documents that were not previously submitted or identified to the PTO:

1. Declaration under 37 CFR § 1.132 by Pascale Blouquin.
2. Laboratories Fournier Lab Notebook No. 1 (18 February 1997 to 15 May 1997) in French and a certified English language translation thereof.
3. Laboratories Fournier Lab Notebook No. 2 (16 May 1997 to 30 July 1997) in French and a certified English language translation thereof.

The undersigned notes that in the Declaration under 37 CFR § 1.132 by Pascale Blouquin at page 5, ¶ 16, the undersigned editorially changed "(attached as Exhibit 3)" to "(attached as Exhibit 5)" for accurate consistency in the numbering of the attachments in the Declaration.

The remaining references cited on the PTO-1449 Form were previously provided to in Information Disclosure Statements filed June 16, 2004; and March 30, 2004.

Applicants respectfully request that the PTO review and consider the documents cited in the attached PTO-1449 Form, including the documents that the PTO did not consider in the Information Disclosure Statement filed June 16, 2004, and March 30, 2004, because they were "Not Prior Art." As recited in MPEP 2001.4 (Emphasis in bold and underlined added):

The term "information" as used in 37 CFR 1.56 means all of the kinds of information required to be disclosed and includes any information which is "material to patentability." Materiality is defined in 37 CFR 1.56(b) and

discussed herein at MPEP § 2001.05. In addition to prior art such as patents and publications, 37 CFR 1.56 includes, for example, information on >enablement,< possible prior public uses, sales, offers to sell, derived knowledge, prior invention by another, inventorship conflicts, and the like. >**"Materiality is not limited to prior art** but embraces *any* information that a reasonable examiner would be substantially likely to consider important in deciding whether to allow an application to issue as a patent." ...

With respect to co-pending applications, MPEP 2001.06(b) states:

The individuals covered by 37 CFR 1.56 have a duty to bring to the attention of the examiner, or other Office official involved with the examination of a particular application, information within their knowledge as to other copending United States applications which are "material to patentability" of the application in question.

MPEP 2001.06(c) states:

Where the subject matter for which a patent is being sought is or has been involved in litigation, the existence of such litigation and any other material information arising therefrom must be brought to the attention of the U.S. Patent and Trademark Office.

In view of the above, Applicants respectfully request that the Patent Office consider the following items which were not considered in the Information Disclosure Statement filed June 16, 2004, and April 1, 2004, because they were "Not Prior Art": US Publication No. 2004/0092597; US Publication No. 2004/0058005; US Publication No. 2004/0058004; US Publication No. 2004/0057999; US Publication No. 2004/0057998; US Publication No. 2004/0057997; US Publication No. 2003/0104060; US Publication No. 2003/0104051; US Publication No. 2002/0168413; US Publication No. 2002/0114839; US Publication No. 2002/009496; EP 0 952 829; EP 0 761 208; WO 98/31361; and Opposition to EP 0 952 829 (December 11, 2003).

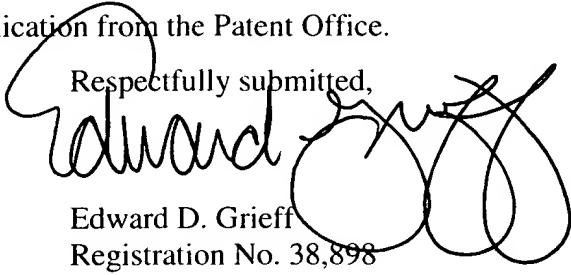
The submission of this Information Disclosure Statement does not represent that a search has been made and does not constitute an admission that the listed documents and/or litigations are material to patentability or that the listed documents are prior art.

This Information Disclosure Statement is being filed after the mailing date of a first office action on the merits and before a notice of allowance. Accordingly, the Commissioner is

Information Disclosure Statement
Application No. 09/899,026 filed July 6, 2001
Page 3 of 3

authorized to charge the fee of \$180 for consideration of this Information Disclosure Statement, and to charge any other necessary fees or credit any overpayments to Deposit Account No. 08-0219.

Applicants respectfully request that the Examiner initial and return a copy of the enclosed PTO-1449 Form with the next communication from the Patent Office.

Respectfully submitted,

Edward D. Grieff
Registration No. 38,898

Date: February 23, 2005
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STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Sheet

1

of

3

Complete if Known

Application Number	09/899,026
Filing Date	July 6, 2001
First Named Inventor	Stamm
Art Unit	1615
Examiner Name	Sheikh

Attorney Docket Number 107664.115 US3

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
		US- 2004/0092597	05-13-2004	Stamm et al	
		US- 2004/0058005	03-25-2004	Stamm et al	
		US- 2004/0058004	03-25-2004	Stamm et al	
		US- 2004/0057999	03-25-2004	Stamm et al	
		US- 2004/0057998	03-25-2004	Stamm et al	
		US- 2004/0057997	03-25-2004	Stamm et al	
		US- 2003/0104060	06-05-2003	Stamm et al	
		US- 2003/0104051	06-05-2003	Stamm et al	
		US- 2002/0168413	11-14-2002	Stamm et al	
		US- 2002/0114839	08-22-2002	Stamm et al	
		US- 2002/0009496	01-24-2002	Stamm et al	
		US-			

FOREIGN PATENT DOCUMENTS

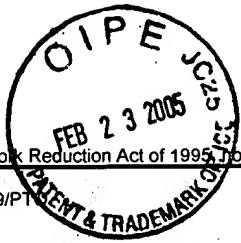
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T ⁶
		Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)				
		EP 0 952 829 B1	03-05-2003	Stamm et al		
		EP 0 761 208 A1	03-12-1997	Duclos et al		
		WO 98/31361	07-23-1998	Stamm et al		

Examiner Signature	Date Considered
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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2

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Attorney Docket Number	107664.115US3

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
		Opposition to EP 0 952 829 (December 11, 2003) (English language translation).	✓
		Opposition to EP 0 952 829 (December 11, 2003) (original French language document).	
		Laboratoires Fournier Lab Notebook No. 1 (18 February 1997 to 15 May 1997).	✓
		Laboratoires Fournier Lab Notebook No. 2 (16 May 1997 to 30 July 1997).	✓
		Declaration under 37 CFR Section 1.132 by Pascale Blouquin.	
		Abbott Laboratories et al v. Impax Laboratories, Delaware Court, Docket No. 1:04cv48.	
		Abbott Laboratories et al v. Impax Laboratories, Delaware Court, Docket No. 1:03cv890.	
		Abbott Laboratories et al v. Teva Pharmaceuticals, Delaware Court, Docket No. 1:04cv47.	
		Abbott Laboratories et al v. Teva Pharmaceuticals, Delaware Court, Docket No. 1:03cv847.	
		Abbott Laboratories et al v. Ranbaxy Pharmaceutic et al, New Jersey Court, Docket No. 3:03cv4067.	

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1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Sheet 3

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Attorney Docket Number	107664.115US3

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
		Abbott Laboratories et al v. Ranbaxy Pharmaceutic et al, New Jersey Court, Docket No. 2:03cv2170.	
		Abbott Laboratories et al v. Impax Laboratories, Delaware Court, Docket No. 1:03cv288.	
		Abbott Laboratories et al v. Par Pharmaceutical, New Jersey Court Docket No. 2:03cv809.	
		Abbott Laboratories et al v. Impax Laboratories, Delaware Court, Docket No. 1:03cv120.	
		Abbott Laboratories et al v. Teva Pharmaceuticals, Delaware Court, Docket No. 1:02cv1512.	

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